

EXHIBIT 15

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
BALTIMORE DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

- vs - Case No.
1:16-cv-03180-ELH

MANUFACTURERS AND TRADERS TRUST COMPANY,
d/b/a M&T BANK,

Defendant.

Examination before trial of ARTHUR
SALMAN, taken pursuant to the Federal Rules of
Civil Procedure, at the Equal Employment
Opportunity Commission, 6 Fountain Plaza,
Suite 350, Buffalo, New York, on November 2, 2017,
commencing at 10:06 a.m., before LORI K. BECK, CSR,
RDR, CRR, Notary Public.

1 A. Typically the position is posted
2 internally so that existing employees have a first
3 opportunity to apply for the open position before
4 it is advertised externally.

5 Q. What does it mean to post?

6 A. It means to seek an open position
7 within the bank in accordance with the bank's job
8 posting policy.

9 Q. Why are those positions posted
10 internally before they are posted externally?

11 A. As a benefit to existing employees.

12 Q. Why is that considered a benefit?

13 A. Because it reduces the number of people
14 you're competing with.

15 Q. Why does M&T Bank afford internal
16 employees that benefit?

17 A. Because it made the decision to do so.

18 Q. Do you know who made that decision?

19 A. No.

20 Q. Since you've been in employee
21 relations, has that always been the practice, to
22 post jobs internally before they're posted
23 externally?

24 A. That is the general practice, and yes.

25 Q. Does that mean there's circumstances

1 under which that is not the practice?

2 A. That is -- that is to say there are
3 circumstances where jobs are not posted internally
4 before they are filled.

5 Q. In those instances, do you know why
6 that decision would be made to post externally
7 before posting internally or at the same time?

8 A. Well, to be clear, we don't refer to
9 the advertisement of a position externally as
10 posting. Posting relates to the process by which
11 internal existing employees can seek open
12 positions.

13 As to why that happens, there are a number
14 of reasons.

15 Q. Such as?

16 A. The skill set required for the position
17 is so unique that a candidate externally may have
18 been selected prior to the position being open.

19 Q. Just so I understand, when you say
20 prior to being open, is that the same thing as
21 prior to being posted -- excuse me, advertised
22 externally?

23 A. No, I should -- I should clarify.

24 The -- an exception to the posting policy
25 could exist when an individual has been identified

1 by management as the desired candidate to fill a
2 position at the time it becomes open and perhaps in
3 the time period leading up to when it is open.

4 Q. Is that exception memorialized in
5 writing?

6 A. It's accounted for in the posting
7 policy. Not in the exact words that I used, but
8 the policy allows for exceptions.

9 Q. And you mentioned one reason that M&T
10 may advertise a position externally at the same
11 time or prior to posting internally is if there is
12 a skill set that is required that's unique.

13 A. If I said that, I should clarify.

14 The -- there are circumstances that would
15 give rise to an exception to offering existing
16 employees an opportunity to post for open positions
17 before considering other candidates. Consideration
18 of those candidates may or may not be the result of
19 an advertising exercise.

20 It may be that individuals are known to the
21 bank who would, for instance, possess a unique
22 skill set that the bank desires to select for that
23 position without going through either an internal
24 posting or external advertising process.

25 Q. If an individual has been identified

1 based on their skill set at -- at or around the
2 time that it is advertised, what is the process
3 that's used for that employee to be onboarded?

4 A. Well, it would depend. They may still
5 go through a full interview process, beginning with
6 talent acquisition and making its way -- the way
7 through the hiring manager, or the person may, for
8 instance, circumvent talent acquisition and begin
9 interviewing with either the hiring manager or
10 senior members of management.

11 In any event, they would likely begin their
12 onboarding process through talent acquisition so
13 that the basic information regarding that candidate
14 could be gathered by talent acquisition.

15 Q. So you testified that they may still go
16 through talent acquisition or they may be able to
17 circumvent talent acquisition and go directly to
18 the hiring managers for interview?

19 A. That's largely correct.

20 Q. Would they be required to submit an
21 application in an instance where they've been
22 identified?

23 A. I believe so.

24 Q. And could there be an instance where an
25 individual who's been identified would bypass

1 talent acquisition and hiring managers and go
2 straight to the onboarding process based on their
3 identification?

4 A. No, there would still be a vetting
5 process before that person were onboarded.

6 Q. When you say vetting, are you referring
7 to the interview?

8 A. Correct.

9 Q. Is there anything other than interview
10 that would comprise that vetting?

11 A. Well, background check.

12 Q. In the instances where an individual is
13 identified -- external candidate is identified as
14 an exception to the job posting policy, which you
15 described as posting internally before posting
16 externally, would those individuals -- would M&T
17 open that position up for competition with other
18 external candidates as well as internal candidates?

19 MS. GRAUMLICH: Objection to form.

20 THE WITNESS: Not always.

21 BY MS. CHUKWU:

22 Q. What do you mean by not always?

23 A. As I said, if a -- if an individual
24 possessed a unique skill set for a unique position,
25 the bank and management may decide that a single

1 individual is the person that they want, is the
2 person they put through the process, and is
3 ultimately the person that is offered the position.

4 Q. And enhanced due diligence
5 investigator, would that be considered a unique
6 position?

7 A. No.

8 Q. M&T at Work specialist? Is that
9 considered a unique position?

10 A. No.

11 Q. Assistant branch manager?

12 A. No.

13 Q. Is that considered unique?

14 What about branch manager?

15 A. Well, by unique in this -- in this
16 context, I would not refer to a branch manager as
17 possessing the type of unique skill set that I
18 described in earlier answers, but that position
19 together with the others that you just listed
20 could, in certain events, be positions for which
21 management had identified individuals that they
22 wished to place in those positions.

23 And if that were the case, they might fill
24 those positions outside of the posting policy.

25 Q. I'm going to show you --

1 action.

2 Q. Is there another reference included in
3 the document?

4 A. Another reference to corrective action
5 or another change that was made?

6 Q. When you say that you deleted, do you
7 mean that that was taken out altogether?

8 A. Taken out altogether.

9 Q. Was it replaced with anything else?

10 A. Not as it related to corrective action,
11 no.

12 Q. Were there any other changes made to
13 the document?

14 A. Not that I'm aware of.

15 Q. This document, the replacement request
16 form, who was required to complete it in connection
17 with the redeployment process?

18 A. The manager seeking to replace the
19 employee.

20 Q. Was it required that managers fill --
21 or complete this document if seeking to replace an
22 employee?

23 A. Yes.

24 Q. After a manager would complete this
25 form, where would it go?

1 redeployment process?

2 MS. GRAUMLICH: Objection, outside the
3 scope.

4 THE WITNESS: I've never been asked to
5 except the standard process, E-X.

6 BY MS. CHUKWU:

7 Q. Why would a hiring manager request an
8 exception to completing a replacement request form?

9 A. Having never received a request, I
10 can't answer that.

11 Q. Do you know whether a replacement
12 request form was completed for Candace McCollin in
13 2013?

14 A. I do not know.

15 Q. When a hiring manager completes a
16 replacement request form, are they required to
17 complete every section of the form as applicable?

18 A. Yes.

19 Q. I would like to direct your attention
20 to the second page of the request form, ending in
21 Bates number 1811.

22 There is a -- looks like a spreadsheet in
23 the middle. The top says Other Available
24 Divisional/Departmental Positions.

25 Do you see that?

1 A. I do.

2 Q. Is this chart, so to speak, the same
3 chart that is reflected in M&T Bank's current
4 replacement request forms?

5 A. Yes.

6 Q. What is an employee hiring manager
7 required to include under this section?

8 A. If there are positions to which the
9 employee would be able to return if they were
10 released within 90 days of the completion of the
11 form, the manager is to identify any such positions
12 within that grid.

13 Q. How would a manager know whether or not
14 there are any comparable positions available?

15 A. By assessing his or her department and
16 any personnel needs that he can anticipate.

17 Q. What does it mean to assess a
18 department?

19 A. To assess the -- the needs within the
20 department.

21 Q. What does that mean?

22 A. If you could anticipate with a 90-day
23 horizon what your staffing requirements are in
24 relation to what your staffing requirements might
25 be, a manager would be in a position to anticipate

1 his or her ability to place the replaced employee
2 into that job.

3 Q. Do hiring managers review the open
4 requisition reports that you testified about
5 earlier in order to determine whether or not there
6 are available positions?

7 A. I don't know.

8 Q. Do hiring managers speak with employee
9 relations in connection with assessing their
10 department to determine if there are any available
11 positions?

12 A. They may, but I'm not aware.

13 Q. Does employee relations ever query what
14 a hiring manager has done to identify available
15 positions within their department?

16 A. I know that employee relations will
17 question and in some cases challenge a manager who
18 has completed the replacement request form.
19 Whether they've done so specifically as to the jobs
20 identified in that grid, that I don't know.

21 Q. If a hiring manager leaves this grid
22 blank, how is that interpreted by employee
23 relations?

24 A. That there are no comparable available
25 positions to which the replaced employee will be

1 slotted even if they are released to return within
2 90 days.

3 Q. Does employee relations follow up with
4 the hiring managers to ensure that that is the
5 reason why this grid was left blank?

6 A. I don't know, although I -- I believe
7 if it is blank, that is interpreted as an
8 indication that there are no such positions
9 available.

10 Q. Well, I direct your attention to the
11 bottom of the first page of this document, ending
12 in Bates number 1810.

13 Third line of the last grid under Coverage
14 Method Employed, it states temporary/contract
15 employee.

16 Do you see that?

17 A. Yes.

18 Q. Does M&T permit the use of temporary
19 and/or contract employees in providing coverage for
20 an employee who is out on leave?

21 A. I know that the bank utilizes temporary
22 and contract employees for temporary staffing
23 needs. Whether they have done so for employees
24 that are currently out on disability leave
25 specifically, I don't know.

1 Q. Have you known of M&T Bank using
2 temporary and/or contract employees to provide
3 coverage for branch manager and/or assistant branch
4 manager and/or M&T at Work specialist positions?

5 MS. GRAUMLICH: Objection, compound.

6 THE WITNESS: I am not aware.

7 BY MS. CHUKWU:

8 Q. When you say you're not aware, is that
9 as it relates to branch manager positions?

10 A. As to all of the positions you listed.

11 Q. What about enhanced due diligence
12 investigator positions?

13 A. I believe we have used contract
14 employees for the enhanced due diligence position,
15 but I am not certain of that.

16 Q. With respect to your testimony about
17 the grid on the bottom on page -- the page ending
18 in Bates number 1811, with respect to completing
19 that grid, was that the same practice with respect
20 to whether or not it's left blank or if it's
21 completed that was in existence in 2013?

22 A. I believe so.

23 Q. Moving on, topic number 13 listed on
24 page 8 of the deposition notice.

25 Does M&T Bank have a transfer policy for

1 employees currently?

2 A. I don't believe so.

3 Q. Has M&T Bank ever had a transfer policy
4 for its employees?

5 MS. GRAUMLICH: Well, objection to scope.
6 You can ask about the relevant time period.

7 THE WITNESS: I don't believe so.

8 BY MS. CHUKWU:

9 Q. You paused before answering. Why is
10 that?

11 A. There may be guidelines that
12 contemplate, for instance, expenses that the bank
13 will cover for an employee who is transferred to
14 another position, but I don't believe that there is
15 a policy that goes into the details of who will be
16 transferred and under what circumstances.

17 Q. Are employees transferred to different
18 positions within M&T Bank?

19 A. From time to time, yes.

20 Q. Is that transfer different than the
21 workforce restructure that you testified about
22 earlier?

23 A. I think it is, although there could be
24 overlap. If an employee's position is eliminated
25 through a workforce restructure, an option for them

1 may be a transfer to another position, but I'm not
2 certain.

3 Q. Are there employees that are
4 transferred that are not subject to the workforce
5 restructure program that you are aware of?

6 A. Yes.

7 Q. Under what circumstances?

8 A. Where the bank has decided in
9 consultation with the employee that they would be
10 better deployed in a different position.

11 Q. Just so the record is clear, when you
12 say deployed --

13 A. Employed in.

14 Q. Not in connection with the redeployment
15 process, correct?

16 A. Correct.

17 Q. With respect to those transfers, would
18 that employee be required to post for the position
19 that he or she is being transferred to?

20 A. I'm not certain.

21 Q. With respect to that transfer, would
22 that employee be required to interview for that
23 position?

24 A. I believe that they would.

25 Q. With respect to that transfer, would